

Notice of Allowability

Application No.

09/908,992

Examiner

Q. Janice Li

Applicant(s)

SYKEN ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/7/04.
2. ☒ The allowed claim(s) is/are 4-8, 27-32, 36-38, 42-46, 50-63 and 67-69.
3. ☒ The drawings filed on 18 June 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 7/6/04, 7/8/04
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/7/04 has been entered.

The amendments filed 1/21/04 and 5/7/2004 respectively have been entered. Claims 1, 3, 21-26, and 47-49 have been cancelled. Claims 50-69 are newly added. Claims 4, 5, 8, 27-32, 36-38, 42-46, 50-53 have been amended. All of the amendments have been thoroughly reviewed and entered. The previous rejections in the Office action of Paper No. 16 are withdrawn in view of the amendments.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Lauren Knapp on July 8, 2004.

The claims have been amended as follows:

Claims 9-20, 33-35, 39-41, 64-66 have been canceled.

In claim 4, the punctuation mark “,” was deleted.

In claim 8, --wherein the method comprises-- was inserted in place of “comprising” in line 2.

Claim 53. (Currently amended) A method for producing a polypeptide comprising SEQ ID No: 9, ~~comprising~~ wherein the method comprises transfecting a cell with a nucleic acid of claim 27 operably linked to a transcriptional control sequence, culturing the cell in conditions suitable for expression of the nucleic acid, and isolating the polypeptide from the cell or culture medium.

Claim 54. (Currently amended) A method for producing a polypeptide consisting essentially of SEQ ID No: 9, ~~comprising~~ wherein the method comprises transfecting a cell with a nucleic acid of claim 28 operably linked to a transcriptional control sequence, culturing the cell in conditions suitable for expression of the nucleic acid, and isolating the polypeptide from the cell or culture medium.

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Claim 55. (Currently amended) A method for producing a polypeptide consisting essentially of SEQ ID No: 9, ~~comprising~~ wherein the method comprises transfecting a cell with a nucleic acid of claim 42 operably linked to a transcriptional control sequence, culturing the cell in conditions suitable for expression of the nucleic acid, and isolating the polypeptide from the cell or culture medium.

Claim 56. (Currently amended) A method for producing a polypeptide consisting of SEQ ID No: 9, ~~comprising~~ wherein the method comprises transfecting a cell with a nucleic acid of claim 29 operably linked to a transcriptional control sequence, culturing the cell in conditions suitable for expression of the nucleic acid, and isolating the polypeptide from the cell or culture medium.

Claim 57. (Currently amended) A method for producing a polypeptide consisting of SEQ ID No: 9, ~~comprising~~ wherein the method comprises transfecting a cell with a nucleic acid of claim 43 operably linked to a transcriptional control sequence, culturing the cell in conditions suitable for expression of the nucleic acid, and isolating the polypeptide from the cell or culture medium.

Claim 58. (Currently amended) A method for producing a polypeptide comprising SEQ ID No: 11, ~~comprising~~ wherein the method comprises transfecting a cell with a nucleic acid of claim 30 operably linked to a transcriptional control sequence, culturing

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the cell in conditions suitable for expression of the nucleic acid, and isolating the polypeptide from the cell or culture medium.

Claim 59. (Currently amended) A method for producing a polypeptide comprising SEQ ID No: 11, ~~comprising~~ wherein the method comprises transfecting a cell with a nucleic acid of claim 44 operably linked to a transcriptional control sequence, culturing the cell in conditions suitable for expression of the nucleic acid, and isolating the polypeptide from the cell or culture medium.

Claim 60. (Currently amended) A method for producing a polypeptide consisting essentially of SEQ ID No: 11, ~~comprising~~ wherein the method comprises transfecting a cell with a nucleic acid of claim 31 operably linked to a transcriptional control sequence, culturing the cell in conditions suitable for expression of the nucleic acid, and isolating the polypeptide from the cell or culture medium.

Claim 61. (Currently amended) A method for producing a polypeptide consisting essentially of SEQ ID No: 11, ~~comprising~~ wherein the method comprises transfecting a cell with a nucleic acid of claim 45 operably linked to a transcriptional control sequence, culturing the cell in conditions suitable for expression of the nucleic acid, and isolating the polypeptide from the cell or culture medium.

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Claim 62. (Currently amended) A method for producing a polypeptide consisting of SEQ ID No: 11, ~~comprising~~ wherein the method comprises transfecting a cell with a nucleic acid of claim 32 operably linked to a transcriptional control sequence, culturing the cell in conditions suitable for expression of the nucleic acid, and isolating the polypeptide from the cell or culture medium.

Claim 63. (Currently amended) A method for producing a polypeptide consisting of SEQ ID No: 11, ~~comprising~~ wherein the method comprises transfecting a cell with a nucleic acid of claim 46 operably linked to a transcriptional control sequence, culturing the cell in conditions suitable for expression of the nucleic acid, and isolating the polypeptide from the cell or culture medium.

Claim 67. (Currently amended) A method for producing a polypeptide comprising SEQ ID No: 30, ~~comprising~~ wherein the method comprises transfecting a cell with a nucleic acid of claim 36 operably linked to a transcriptional control sequence, culturing the cell in conditions suitable for expression of the nucleic acid, and isolating the polypeptide from the cell or culture medium.

Claim 68. (Currently amended) A method for producing a polypeptide consisting essentially of SEQ ID No: 30, ~~comprising~~ wherein the method comprises transfecting a cell with a nucleic acid of claim 37 operably linked to a transcriptional control sequence,

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culturing the cell in conditions suitable for expression of the nucleic acid, and isolating the polypeptide from the cell or culture medium.

Claim 69. (Currently amended) A method for producing a polypeptide consisting of SEQ ID No: 30, ~~comprising~~ wherein the method comprises transfecting a cell with a nucleic acid of claim 38 operably linked to a transcriptional control sequence, culturing the cell in conditions suitable for expression of the nucleic acid, and isolating the polypeptide from the cell or culture medium.

Claims 4-8, 27-32, 36-38, 42-46, 50-63, 67-69 have been renumbered as claims 1-36 according to 37 C.F.R. 1.126 (see MPEP 608.01 (j) and 608.01 (n)/IV).

Conclusion

Claims 4-8, 27-32, 36-38, 42-46, 50-63, 67-69 are allowed.

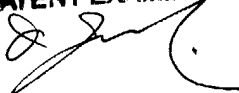
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Q. Janice Li** whose telephone number is 571-272-0730. The examiner can normally be reached on 9:30 am - 7 p.m., Monday through Friday, except every other Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Amy Nelson** can be reached on 571-272-0804. The fax numbers for the organization where this application or proceeding is assigned are **703-872-9306**.

Any inquiry of formal matters can be directed to the patent analyst, **Dianiece Jacobs**, whose telephone number is (571) 272-0532.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is **703-308-0196**.

JANICE LI
PATENT EXAMINER



Q. Janice Li
Patent Examiner
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July 8, 2004